

**PLANNING BOARD  
TOWN OF MARILLA**

Date: May 19, 2005

Present:	Debbie Zimmerman, Chairman	Barbara Spanitz, Town Board
	Nathan Barnard, Co-Chairman	Robert Miller, Consult
	Dan Handy	John Fronczek, CEO
	Rich Janiga	
	Paul Domanowski	
	Tom Wantuck	

Absent: Judy Gillman

Guests: Eric Decker, Adrienne Decker, Warren Handley

- I. Debbie Zimmerman, Chairman, opened the Planning Board meeting at 7:00 p.m.
- II. **MOTION** to accept April minutes by Nathan Barnard, seconded by Paul Domanowski. All in favor – 6 ayes.
- III. Old Business
  - a) Rohl Property – Dan Handy suggested attaching a “deed” restricting any property owner from opening an adult entertaining business. Bob Miller responded you can attach zoning restrictions and he will talk to Attorney Nathan Neill. There already is a business zoned adult entertainment code for specific areas.

Eric and Adrienne Decker of 797 Two Rod Road wondered if we knew what type of businesses would be going in and expressed concern over disturbing wetlands. Nathan Barnard responded they were not planning on putting the entire property under business but just expanding the corner. At the previous meeting Realtor John Boyle asked the Planning Board what type of businesses they would like to see.
  - b) Bob Miller suggested revisiting the existing codes. Bob Miller handed out some definitions. A Special Use Permit is now used when someone applies for a flag lot. Rich Janiga suggested developing a flag lot application. A completed application needs to be filled out before the Planning Board will look at it. Under definitions on page 2, # 6 and 7 shall be removed. A standard lot size in Marilla is 200 x 300. A discussion took place regarding the minimum setback on a flag lot.

**MOTION** to change area of flag lot requirement to be increased to 300 x 300 with 100 foot setback all around. Approved by Nathan Barnard, seconded by Dan Handy.

Roll Call Vote:

Tom Wantuck – aye

Dan Handy - aye

Rich Janiga – aye

Nathan Barnard - aye

Paul Domanowski – aye

Debbie Zimmerman - aye

Motion carried.

Rich Janiga suggested allowing one house instead of two per driveway on flag lots. It was discussed if people should be required to use up their road frontage before creating a flag lot. Debbie Zimmerman feels we should not be able to tell people to sell off their road frontage first as the individual may have a plan. Tom Wantuck questioned if we want to open up our interior land as we are trying to preserve our agricultural land. Bob Miller stated it does not specifically say flag lots are limited to two. They are limited to two on a private driveway on a 30 foot right of way, but if someone wanted to come in and have a flag lot with four then it is called a subdivision as long as they put in a 66 foot right of way. The state limits it to two single dwellings.

**MOTION** by Dan Handy to remove the word prime farmland from flag lot and remove the restriction and also allowing only one flag lot per original tax parcel from 1996, seconded by Rich Janiga.

Roll Call Vote:

Tom Wantuck – aye

Dan Handy - aye

Rich Janiga – aye

Nathan Barnard - aye

Paul Domanowski – aye

Debbie Zimmerman – aye

Motion carried.

**MOTION** to change the definition of flag lots to accept the way it is stated here with the change that the lot size will be in the regulations.

Roll Call Vote:

Tom Wantuck – aye

Dan Handy – aye

Rich Janiga – aye

Nathan Barnard – aye

Paul Domanowski – aye

Debbie Zimmerman – aye

Motion carried.

John Fronczek stated the accessory building should stay at a 30 foot setback.

Bob Miller handed out subdivision regulations from different areas. He recommends using the major and minor subdivision definitions. Attorneys from the Department of State are familiar with the Health Department regulations and

prefer not having a timeframe put in whereas the Health Department would like a timeframe similar to the Marilla codes. Bob Miller asked if there has there been any change in the process with the Special Use Permit. Flag lots are a Special Use Permit. Dan Handy responded there has been no public hearing on flag lots. Bob Miller stated NYS Town Law states an authorized board shall conduct a public hearing within 62 days from the date an application is received and any matter referred to under the section of Special Use Permits. Rich Janiga stated our flow chart is wrong. We need to correct the Special Use Permit flow chart.

Bob Miller stated the issuance of a Building Permit is now used to control the dividing of land. The problem is if someone wants to sit with ten lots and wait five years, etc., they are still creating a subdivision. Bob Miller stated if we allow this to happen then we have created a subdivision without any consideration of traffic, water supply, impact on wetlands, and sewage. An individual from the Erie County Department of Health offered to attend a joint meeting with the PB and Town Board to talk about his review of subdivisions in Erie County. Bob Miller recommended looking at the subdivision regulations and maybe adding a time limit factor. Dan Handy feels we would have control if we only allow two lots to be sold in four years.

Warren Handley stated if the town sets a precedence and follows it that is one thing, but if the town has two precedences where you allow people to possibly eat up all that land but then you make someone else follow the rules then you are possibly opening up yourself to a lawsuit. Warren Handley feels if you split four lots that will equal a subdivision of land.

#### IV. New Business

Barbara Spanitz stated the CAB would like to be present at the joint June 16, meeting with the Town Board. The PB felt it would not be a good idea but they were welcome to sit in and listen to the meeting. Chairman Debbie Zimmerman asked Barbara Spanitz to relay the message to Supervisor John Foss.

Bob Miller requested Attorney Nathan Neill attend the June 16 meeting. A work session was suggested for Monday, June 13, 2005, which will be posted on the bulletin board.

#### V. CEO Report

John Fronczek stated the Bullis Road Church is going to demolish the house and add on to the back. They will be putting up some type of barrier so people can enter and exit the same way. Does the parking situation need to be reviewed by the PB? Rich Janiga stated it does not need to come before the PB. Bob Miller requested having them do a traffic impact study.

VI. Town Board Report

None.

VII. Open Presentations from the Floor

None.

VIII. **MOTION** to adjourn at 9:23 p.m. Rich Janiga moved, seconded by Dan Handy, all in favor 6/0.

Respectfully submitted,

Laura Nuttle, Clerk